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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,001	07/16/2003	Robert Brady	P-1816-CIP	9119
7590 09/22/2004			EXAMINER	
Charles J. Prescott Suite 115 2033 Wood Street Sarasota, FL 34237			MEISLIN, DEBRA S	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,001	Applicant(s) BRADY ET AL.	
	Examiner Debra S Meislin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 13 is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/03</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. Claims 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, line 10, "said pliers" lacks antecedent basis.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Moffitt Jr et al (5865077).

Note column 2, line 65 which indicates that the "foam material may be used to enclose all or a portion of the handle end 8".

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moffitt Jr et al (5865077).

Moffitt Jr et al appears to disclose the claimed densities and volumes since the sleeves are made of a buoyant foam material and the handles are made of plastic.

However, Moffitt Jr et al does not specifically disclose a sleeve with a density of about

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0.1 g/cc and the density of the levers being about 1.3 to 1.6 g/cc. The density of the sleeve and the handle would be dependent upon the chosen material used.

Consequently, it would have been obvious to one having ordinary skill in the art to form the device of Moffitt Jr et al with any chosen density including a sleeve with a density of about 0.1 g/cc and the density of the levers being about 1.3 to 1.6 g/cc.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moffitt Jr et al (5865077) in view of Tally (5987750).

Moffitt Jr et al discloses all of the claimed subject matter except for the handle being formed of fiberglass reinforced nylon. Tally discloses handles being formed of fiberglass reinforced nylon (col. 4, lines 15-22). It would have been obvious to one having ordinary skill in the art to form the handles of Moffitt Jr et al out of fiberglass reinforced nylon for its strength and economy as taught by Tally.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffitt Jr et al (5865077) in view of Svirklys et al.

Moffitt Jr et al discloses all of the claimed subject matter except for the sheath being formed of closed cell foam and the sheath being formed of ethylene vinyl acetate with a density of about .12 g/cc. Svirklys et al discloses the use of closed cell foam (col. 5, lines 53-56), ethylene vinyl acetate (col. 5, lines 42-56; claim 30), and a density of .02-.06 g/cc up to .32 g/cc (col. 3, line 54; col. 6, lines 45-47). It would have been obvious to one having ordinary skill in the art to form the sheath of the device of Moffitt et al with closed cell foam, out of ethylene vinyl acetate, and with a density of about

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0.12 g/cc as such would have been obvious equivalents to provide the required buoyancy as taught by Svirklys et al.

8. Claims 1-6 and 13 are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 703 308-3671. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 703 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

August 16, 2004